

## POLICY ON POSTPONEMENT OF HEARINGS

### 1. Context

This policy clarifies the provisions of the *Rules of evidence and procedure of the Administrative Labour Tribunal* (the REPALT) concerning applications for postponement.

The purpose of this policy is to ensure optimal use of the human and material resources of the Tribunal administratif du travail (the Tribunal) in carrying out the mandate entrusted to it by the legislator, which is to promptly, and in a manner devoid of formalism, hear the proceedings referred to in section 1 of the *Act to establish the Administrative Labour Tribunal*, CQLR, c. T-15.1, in accordance with the rules of natural justice and within legal time limits.

### 2. Legal framework

Sections 24 through 27 of the REPALT establish the rules that pertain to applications for postponement of a hearing:

**24.** Applications for postponement of a hearing must be filed in writing as soon as possible.

The application, in writing, must include supporting documents, be notified to the other parties and contain the following information:

- (1) the grounds invoked;
- (2) the consent of the other parties, where applicable;
- (3) the probable duration of the hearing;
- (4) the need for expert evidence and the presence of an expert at the hearing;
- (5) the early dates when all the parties, their representatives and witnesses, including the experts, are available.

**25.** A hearing is postponed only if the grounds invoked are serious and if required for the ends of justice.

The parties' consent is not in itself sufficient ground to grant a postponement.

**26.** The Tribunal may refuse an application for postponement because of the nature of the matter, the impossibility to set a new hearing at an early enough date, the obligation to comply with a time period prescribed by law, or the conduct of the party submitting the application.

27. When the application for postponement is substantiated by the need for the services of an expert or by the expert's unavailability for the hearing, the Tribunal may ask the party submitting the application to confirm, as the case may be, that the expert accepts the mandate or that the expert will be available to testify at the next date to be set.

### **3. Purpose**

The purpose of this policy is to improve scheduling efficiency so that cases are heard within legal time limits.

It provides a framework for standardized, consistent and efficient treatment of applications for postponement.

### **4. Scope**

This policy applies to all applications for postponement of hearings that concern any of the Tribunal's administrative divisions and its regional offices.

### **5. Content of applications for postponement**

All applications for postponement must be made in keeping with section 24 of the REPALT.

### **6. Processing of applications for postponement**

#### **6.1 Applications for postponement filed within 45 days following the date of the notice of hearing – WITH the consent of the other parties**

Subject to section 6.4, applications for postponement filed within forty-five (45) days following the date of the notice of hearing are awarded with the parties' consent. A new hearing date is scheduled as soon as practicable, taking into account the circumstances and, if possible, the parties' availabilities.

#### **6.2 Applications for postponement filed within 45 days following the date of the notice of hearing – WITHOUT the consent of the other parties**

Subject to section 6.4, applications for postponement filed within forty-five (45) days following the date of the notice of hearing are awarded only on serious grounds and in keeping with sections 25 and 26 of the REPALT. A new hearing date is scheduled as soon as practicable, taking into account the circumstances and, if possible, the parties' availabilities.

### **6.3 Applications for postponement filed over 45 days following the date of the notice of hearing – WITH or WITHOUT the consent of the other parties**

Subject to section 6.4, applications for postponement filed over forty-five (45) days following the date of the notice of hearing are awarded only on serious grounds and in keeping with sections 25 and 26 of the REPALT. A new hearing date is scheduled as soon as practicable, taking into account the circumstances and, if possible, the parties' availabilities.

When granting postponement, the Tribunal can set a hearing date peremptorily in the interest of justice.

### **6.4 Matters filed pursuant to sections 20.0.1, 25 or 45 of the *Labour Code*, CQLR, c. C-27, section 7.4 of the *Act respecting labour relations, vocational training and workforce management in the construction industry*, CQLR, c. R-20, or sections 124 and 164.1 of the *Building Act*, CQLR, c. B-1.1**

- The Tribunal decides on applications for postponement in accordance with sections 25 and 26 of the REPALT.
- When postponement is granted, a new hearing date is scheduled as soon as practicable, taking into account the parties' availabilities if possible.
- The Tribunal may take any measures it considers necessary to mitigate the adverse effects of postponement.

## **7. Decision**

Unless the Tribunal informs the parties that postponement had been granted, they must attend the hearing at the time and date scheduled or agreed upon, and be prepared to commence or continue the hearing.

## **8. Coming into force**

This policy comes into force on May 4, 2017.